

The Glimcher, et al. patent discloses a process for successfully removing an isolating calcium-phosphate crystals of bone from a substantial amount of the organic matrix and cellular constituent of bone without significant physical, chemical, or structural alteration in the crystals.

The Glimcher, et al. patent fails to disclose the method of the present invention wherein the actual ground bone tissue is molded into a bone composite. While the process of Glimcher, et al. comprises grinding bone tissue, the reference fails to disclose molding the actual ground bone tissue into a bone composite.

In Glimcher, et al., the isolated calcium phosphate crystals are used in a variety of applications. Specifically, once the bone particles are ground, the bone powder is disaggregated to release single crystals and small aggregates of crystals. The crystals are typically applied to the cement or paste, in combination with a binder. The cement or paste is typically applied onto a surface by spraying, for example. The surface is typically a prosthetic and a spraying occurs prior to or at the time of implantation. See column 11 of Glimcher. Thus, the Glimcher reference also fails to disclose a load bearing composite such as the one described in the present invention. Even though, at column 12 in Glimcher, lines 35-45, Glimcher discloses that the crystals could be shaped into blocks of ceramic, the reference still discloses that the crystals are used for

coatings rather than low bearing bone composites of the present invention.

With respect to Claims 19, 25, 28, and 32, the subject matter of Claim 20, free from this rejection, has been incorporated into Claim 19 as per the above amendment. Claims 25, 28, and 32 all depend from Claim 19. Accordingly, these claims should be allowable as well.

In order to anticipate a claim, each and every element as set forth in the claim must be found either expressly or inherently, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1997). Additionally, when setting forth a rejection under 35 U.S.C. § 102, the “identical invention must be shown in as complete detail as is contained in the...claim.” Richardson v. Suzuki Motor Co., 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1999). At least in view of the differences set forth above, and the standard set forth by the Federal Circuit, Applicant respectfully submits that the above rejection should be withdrawn.

Claims 1-14, 17, 19-28, and 31 are rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Boyce, et al., U.S. Patent No. 6,294,187. This rejection is respectfully traversed. Reconsideration and withdrawal thereof are requested. However, in view of the attached Declaration under 37 C.F.R. § 1.131, this rejection is moot. The attached Declaration establishes a conception and reduction to practice

date prior to the effective filing date of the Boyce, et al. patent, relied upon by the Examiner in the outstanding Office Action. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

Issues under 35 U.S.C. § 103(a)

Claims 15, 16, 18, 29, and 30 are rejected under 35 U.S.C. § 103(a) as being allegedly obvious over the Boyce, et al. patent. This rejection is respectfully traversed. Reconsideration and withdrawal thereof are requested. However, in view of the attached Declaration under 37 C.F.R. § 1.111, discussed above, this rejection is believed to be moot.

Accordingly, Applicant respectfully requests that this rejection be withdrawn.

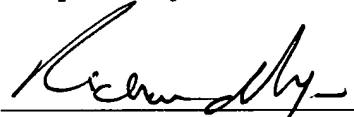
From the foregoing, further and favorable reconsideration in the form of a Notice of Allowance is requested, and such action is believed to be in order.

If the Examiner has any questions regarding this Amendment, the attached Declaration, or the Application in general, he/she is respectfully urged to contact the undersigned at the number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies, to charge payment or credit any

overpayment to Deposit Account No. 23-0035 for any additional fee required under 37 C.F.R. 1.16 or under 37 C.F.R. 1.17.

Respectfully submitted,



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Version With Markings to Show Claim Changes Made

Claim 19 (amended). A bone tissue composite, comprising:
ground bone tissue molded to form a desired shape, wherein the
bone tissue is substantially cortical bone tissue; and
a binder selected from at least one of a cyanoacrylate or fibrin.